

Testimony before House Commerce Committee

HB 2531

February 2, 2012

By Secretary Karin Brownlee

Mr. Chairman and Members of the Committee:

I appear today in support of House Bill 2531, an act creating the workers compensation and employment security boards nominating committee. I recommend passage of this bill because it provides representation to working Kansans and Kansas employers in the selection of nominees for appointment to important positions that have a great effect on employment laws in Kansas. Currently, two organizations, the Kansas AFL-CIO and Kansas Chamber of Commerce wield almost exclusive authority in the selection of who serves the citizens of Kansas in the positions of workers compensation administrative law judge (ALJ), workers compensation appeals board member and a member of the employment security board of review. This bill creates a mechanism where more organizations are given a seat at the table in the nominating process. This newly created committee is representative of more Kansas workers and more Kansas employers.

This bill creates seven member workers compensation and employment security boards nominating committee for the purposes of providing the relevant appointing authorities nominees for appointments to the positions of workers compensation ALJ, workers compensation board member, and employment security board of review member.

The nominating committee will be comprised of seven members, representative of employment in the state of Kansas. The Kansas Chamber of Commerce and Industry (KCCI), National Federation of Independent Business (NFIB), Society for Human Resources Management (SHRM), Kansas AFL-CIO, and the Kansas Self-Insurers Association shall each select a member and forward that selection to the Governor. Additionally, the Kansas Secretary of Labor shall appoint two members, one of her own choosing, and one from either a public employee union or professional employee (i.e., education worker) union. The Governor is given the authority to appoint the selections or reject them and request the organization or individual to provide a new representative. Members of the nominating committee will serve 4 year terms and will be limited to 2 consecutive terms. No action of the committee is effective unless approved by two-thirds of the committee.

Employment Security Board of Review

The employment security board of review is the second level of unemployment appeals. The board is comprised of three members who serve four year terms. One of the members is nominated by the Kansas AFL-CIO and one member by KCCI. The third member is selected by the other two members. Each member must be confirmed by the senate.

This bill changes the selection of members so that each is appointed by the Governor from a list of three nominees submitted by the newly created workers compensation and employment security boards nominating committee. The members will still go through senate confirmation.

Upon further consideration, we would ask you to please consider an amendment which we would recommend be added on p.11, line 40: *No board member will serve more than two consecutive terms.*

Workers compensation administrative law judge

Currently, workers compensation ALJ's are nominated by a two member committee comprised of one representative each from the Kansas AFL-CIO and KCCI. The committee considers qualified applicants and is required to reach a unanimous agreement on nomination for the position of ALJ. Applicants are considered qualified if they have at least five years of experience as an attorney with at least one year of experience practicing in the area of workers compensation. Nominations are forwarded to the Secretary of Labor, who can appoint or reject the nomination. ALJs are appointed to four year terms and are deemed to meet the qualification requirements and shall be considered for renomination by the current workers compensation administrative law judge nominating and review committee at the end of their term.

This bill eliminates the two member workers compensation ALJ nominating and review committee. Under the bill, the newly formed workers compensation and employment security boards nominating committee will review all qualified applicants as submitted by the director of workers compensation to nominate a qualified person to fill the vacancy and submit that nomination to the Secretary of Labor for appointment. Qualifications for ALJ's will increase to at least five years of experience practicing law in the area of workers compensation. ALJ's at the end of the term must go through the same application process as other applicants.

Workers compensation board

Currently, the workers compensation board is selected by the workers compensation board nominating committee which is composed of two members appointed by the Kansas AFL-CIO and the Kansas Chamber of Commerce and Industry. The nominating committee considers all qualified applicants submitted by the director for the vacant position on the board or the member pro tem position and nominates a qualified person. The Secretary of Labor appoints or rejects the person nominated by the nominating committee to the position on the board for which the nomination was made.

The bill adds a requirement that board members have at least 5 years experience practicing law in the area of workers compensation. It replaces the workers compensation board nominating committee with the newly created nominating committee described above. The bill also allows workers compensation board members to sit together in panels of three members or more, but all decisions of the board must be approved by a majority of not less than three of the members hearing that case.

Thank you for your time and consideration. I am happy to answer your questions.